App. F IX-4

192 .

( )

File No. 31-25

Serial Nos. 1-2

Previous References
SR 64-52 A53 6-5
mc 69-10 451-10
" 67-10 451-6

Later References
mc 31-25 A53 46 8
" 31-368 19
mc 98-39-6
hc 22-41-43 46 51 (Vide 2-63-24)
mc 29-40

# General and Revenue Secretariat.

Serial Nos. two only

Part B for Supply

SUBJECT

Removal of restrictions on the building of new houses or extension of existing ones in the localities known as Bobbili and Palace upparahally Bangalore City

2 To, The Municipal Commr Bangalore
No 2 1076 of 24 & 27
passes orders on the matter
with certain observations that the pucca
houses in the localities may be permitted to
be repaired and thatched houses augmented
as well as some pucca houses which are too close
to the main road and also that Applicants
who dispossessed of their houses may be allotted
sites in Guddahalli

(S.R.No. 11)

1925-26

GENERAL AND REVENUE SECRETARIAT

( Rural )

NOTES

File No. 91-25

File Heading

Removal of the prohibitory restriction against the erection of mud houses or extension of the existing ones in Dist. Mint and Palm Upparahalli in the Bangalore City.

From

The Rural Asst, Bangalore City.

No. 10 Dated 24.7.25 Received 29.7.25

Diary No. 6976 Enclosures 8 Spare Copies Serial No. 1

Brief Abstract of Letter

Submits proposals to modify the restrictions of the Rural Council prohibiting mud walls in Lingarajapuram and Palace Upparahalli in the Bangalore City, which area within the areas, wherein the erection of mud houses or extension of the existing ones have been prohibited without obtaining Municipal permission from time to time by the Council under section 80 of the Bangalore City Municipal Act for the maintenance of the cleanliness of the locality.

The above proposals were approved under Government Order and Notifications No. 18 J dated 16.8.1915 and 1875 of the 24th October 1912 and Government No. 769/R.D. dated 2nd July 1912

Notice Fixed Dated

[App I (2) III—4

of 1926

Land and Revenue Secretariat

File No 81

Serial No

2 The Rural Panchayat notifies that the inhabitants of the said District and Patna Taluka generally wishes of the contract applications for licenses to establish their commissary and distilleries and that these applications are being rejected on behalf of the said Chief to avoid notifications.

3 As these notifications would grant Panchayats on the inhabitants of the Country the Rural Council have approached Govt to revoke the notifications

4 The said villages have since been brought under the above prohibitions from the grounds of their being situated very near to the Palace of His Highness at Ramgarh.

5 The consent of His Highness seems to be necessary to remove the prohibitions as prescribed by the Rural Council.

Recommended for sanction.

17/5/26

(Illegible)

7 Shown

Draft order on letter

Form sent in Vern

If not replied 4 days

Put before branch for the same after

(Illegible)

Put before branch for the same after

App. F III—2]

File No. of 192

WD 6569—GPB—40,000

General and Revenue Secretariat

Serial No.

Messrs—Quain Rice

1922 (3

G. R. S. III-2.

General and Revenue Secretariat. | File No. 81 of 1929

Serial No.

Subd. There is no information as regards the authority under which the Notification restricting the construction of buildings in the area mentioned was issued. The records may be reported to have and must be with the connected records.

20 3/26 Recorded

Subd

No 767-8 dt 2-7-1892 and 769/R 7 55 leads to R.7 55-1892 Thus file is not in its place and on referring to the arrangement register kept by the Spl Sorting Establishment, it is as "Slip" which is not available Now "To" Register the required No. is countermarked and hence it is not traceable On a further search the required three notifications are published in the Udaipur Gazette as they 393 and 394 of Part I dated 29th July 18 If a formal requisition is sent, the paras will be sent

19/9/26

Form—Comm. sheet.

702
19 AUG 527

(4

In Notification No 13 dated 13th April 1868 it was notified that certain portion of ground in the vicinity of Bangalore had been reserved for public purposes and on this ground the Commissioner prohibited the erection of building ~~on that xxxxxxxx xxxxxxxx~~ without distinct permission to be obtained under a grant from the Mysore Government The sinking of wells or any extensive excavation for any purpose whatever within the area referred to were also prohibited without permission having been previously obtained This Notification was republished in Notification dated 24th October 1872 Notification dated 2nd July 1892 republished the above Notifications and described the boundary line to which the prohibition extended It further notified another boundary line within which the erection of buildings of any kind whatsoever was prohibited The Municipal Council have recommended that the above reservations may be withdrawn and construction of buildings permitted without any restriction

2 The question for consideration is whether the above Notifications have any legal effect and if so whether the Notifications may be repealed

3 As the question ~~presented~~ involved considerable difficulties and could not be answered except with considerable diffidence I wanted to get at the original records leading up to the above Notifications to see under what powers the Chief Commissioner and the Government acted in issuing the Gos but all the attempts at getting at the papers proved futile as the records were unable to trace them In spite thorough

ore

fall back upon the examination of the seve Acts ~~xxxxxxxxx~~ affecting the Land Revenue system and the Municipal areas

4 The Notifications in ~~connection~~ Mysore are not included among the Chief Commissioner's Notifications issued independently of any enactment and having the force of law mentio e in Part II of Schedule to the Mysore Treaty

5 Taking the Notification of 1868 first, it will be observed that on the date of t is Notification, Acts XIV of 1856 and XVII of 1834 seems to have been in force ~~but there does not seem to be any provision in them~~

so far as the management of Municipal affairs in the City and cantonment was concerned ~~were concerned~~ either under these nor under the Revenue law prevailing at the time the Notification in questio could have issued As the Chief Commissioner was practically the final authority in all matters being controlled only by the Governor General in Council the order promulgated by him seems to have had the force of law

6 The above Notification was republished in 1872 (No 188 dated 24th Octoner 1872) On this date the Municipal Regulation of 1871 introduced by the Government of India Notification No 571 J dated 31st March 1871 and the Bombay Survey and Settlement Act I of 1865 an IV of 1868 introduced into Mysore by Notification No.83 dated 30th April 1869 ~~the in force~~ There is no provision in the Municipal Regulation of 1871 which precludes the issue of the Notification nor which authorises the same Section XXXII of Act I of 1865 enacted that a survey or settlement officer may not part

unoccupied lands ~~xx~~ in unaliena ed villag for free pasturage for village cattle, for forest reserves, or for any other public or Municipal purpose and lands assigned specially for any such urpose ~~and lands assigned specially for any such purpose~~ shal not be otherwise appropriated or assigned without the sanction of the Revenue ~~Commissxx~~ Commissioner" Under Section XXXV an occupant of any Government land was entitled in virtue of his occupancy to erect farm -- buildings construct wells or tanks, or make any other improve ents thereon for the bette cultivation of the land but he could not however appropriate it to any purpose ~~xxxxxx~~ unconnected with agriculture so as to destroy or injure it for cultivation except with the previous permission of the Collector to be regulated by orders issued by the ~~Conserva-~~ Commissioner ~~tor~~ in this behalf

7) Under these provisions it is the Surv or settle ent officer that has to set apart unoccupied lands for public purposes and the lands so set apart shall not be otherwise appropriated Assuming that the lands in question were unoccupied lands their reservation for a public purpose is legal but it is the Survey or Settlement officer that has to set them apart and not the Commissioner

8) If on the other hand the lands were occupied ones, the Notification would be inconsistent with the Act in that it prohibits the sinking of wells or any ~~xxxxxxxxxxxxxx~~ extensive excavation, acts which the occupant has a right to do by virtue of his occupancy If therefore the lands are occupied ones, the Notification may not have a legal basis.

9 Lastly Notification dated 2nd July 18 refers to two matters --

(1) Republication of Notification of 1872 and (11) Prohibition of erection of new buildings or extension of existing buildings in certain areas For testing the legality of this Notification we have to see what laws were in force at the time The Land Revenue Code of 1888 had been enacted then and the Municipal Regulations of 1871, Regulations III of 1880 and I of 1880 were in force There is nothing in the Municipal Regulation against the issue of a Notification of the type in question

10 Section 39 of the Land Revenue Code corresponds to Section XXXII of the Act of 18 and Section 63 to Section XXXV of the old Under these provisions the Notification could be justified provided the land is unoccupied Otherwise the Notification is an inroad into the rights of an occupant conceded by Section 63 and as such would be ultra vires

11 The hole question has resolved itself into whether the lands are or are not occupied If the latter the reservation for public purpose and consequent restrictions for certain uses would be legal

12 In the absence of the records it is not possible to state why exactly the lands were reserved and building and excavation prohibited and whether the necessity exists any longer In view of the proximity of some of the reserved area to the Palace it may be desirable to find out the previous history of these orders I would suggest therefore that the available records in regard to these orders may be obtained from the offices of

Deputy Commissioner, ~~and~~ the Municipality and perused before final orders are passed on the recommendation of the Municipal Council

13 It would appear that the reservation of some of the blocks was necessitated by the desirability for conserving the Sampige and Miller anks Now that the Miller Tank is being drained off there is perhaps no longer any necessity to have the reservation In this view the Notification may perhaps be withdrawn in so far at least as Palace Guttahalli and Upparahalli lands are concerned But it is desirable to ascertain from the records if any, the original idea in ~~xxxxxxxxxx~~ imposing restrictions

A—, P. III—4.

For Revenue Department

File No. of 192 .

Serial No.

The Superintendent Revenue Survey & Settlement Letter No 266 dated 9/5/27 states that he is in possession of correspondence on the subject of the grant of certain lands in Gujarat to the Hon'ble Mr. Elphinstone.

Submitted for favour of perusal. Reply from the Municipal Commissioner is still awaited and may perhaps be received [illegible] Hormusjee also be requested

Submitted for favour of perusal. Reply from the Municipal Commissioner is still awaited and may perhaps be received [illegible] Hormusjee also be requested

Submitted with a draft to Municipal Comm.

Issued as 5061 dt 16/5/27

From the Municipal Commr Bombay, Letter No 8 4—26 dated 18/5/27 States that no record of the Govt. order of 1868 etc are available in his office.

Submitted to old record Section & to ascertain if any such order as referred to exists & if so to call for it from the Collector & Political Agent Kathiawar. Also to ascertain whether any of the other Collectors & Political Agents in Gujarat have any such orders in their offices.

5326

App. F III—9]

General and Revenue Secretariat. | File No | of 192

Serial No.

Re news of Palace authorities and absence of Hon Highness the Maharaja

BBK
21/5/47

21 The localities being situated near the Palace and the Cantonment Railway station the Palace authorities may be consulted before passing any orders

22 The Collector may also be able to give information and may be consulted

(Legal D)

23 Police section may search for & put up refer

P.S. 389
26/5/47

(P B)

Sd/-
30/5

Sd/-
30/5

Sd/-
Reg. The file considered with reference No 769 dt 21/7/42 (R 7 5-6-42) is stated to be missing in the Legal Records.

Note—Contin. sheet.

WD 2000—9/42—10,000—4-2-42

Serial No.

1

Papers leading up to the Chief Court's Notification No 13 M 23/4/1868 have apparently been transferred to the Residency Records (It is understood that all records of correspondence between the late Chief Court & the Govt of India were similarly transferred to the Residency Records) Copies of correspondence which led to the issue of the Chief Court's Notification may perhaps be obtained from the Residency, if available.

The object of reservation by the Chief Court is presumably due to the remoteness of the locality both either to the Car Festival limits or to the Railway Station.

2/12/16 Ch Secy 7/12/16

(12-

WD 01230—GPB—87,500—1.9.26. App. F III—2]

General and Revenue Secretariat

File No 37/PP 5326/P of 192

DEWAN'S OFFICE Received on 1 JUL 1927 Regd. No.

Original No.

SECRETARIAT OFFICE Received on 4 JUN 1927 Regd. No. 9381

It is not perhaps worth while asking the Revenue for the correspondence whereas the object of the restriction, it seems at present a useful purpose and is preventing indiscriminate house building in an important area and may be left undisturbed. There cannot be much hardship if licence offices in such cases are referred to Govt for sanction the applications cannot be numerous as I have seen only one such during the past three months

Dewan)

3/6/27

This file was referred to P P Section for report in the matter

The file may now be sent to Legislative Branch

6/6/27

Now be sent to Legislative Branch by Dewan's Office 6/6/27

Shall subject to location and Resident's Commissioner's approval be given to grant permission for construction of houses in the area mentioned in the letter from Mysore

Permission is not satisfactory the permission shall be granted to erect houses in the area mentioned shall be regarded We are doing neither some what as necessary over building operations in the vicinity of the Palace

Dewan 6/6/27

Legislative Branch 3/7/27

K 7/6

Notes—Contin. Sheet

App F III—2]

General and Revenue Secretariat. | File No | of 192

Serial No.

4 I inspected the two localities this morning in company with Mr M Gibbon Khan, Rambagal & Jowara Rao (M Civ)

3 I feel the best course would be —

(1) to permit improvement of existing pucca houses, but not extensions thereof. No labour should be made for locality except by carts

(2) to acquire certain houses, or some part of each, specified, which are to close the main road

(3) to impose the restriction of pucca as far as possible. If we are not able to secure a hearty cooperation in Layouts I feel on an entirely new plan as was originally contemplated an unpalatable step would not necessarily be an insurmountable one. Owners out of congested areas, undersons of Land Owners are always - & improvement of sanitation generally can also and must be attempted

Deputation people may be allowed to meet at Yelahanka, if they so request & with this

14-8-27

NOTE—Contin. sheet.

WD 2859—SFB—10,000—4-5-26

U S for a detailed draft

15/8

REVAN'S OFFICE.
Received on
15 AUG. 1927
Reg. No. 1241

(14

702 [illegible]

App. F III—9]

General and Revenue Secretariat | File No [illegible] of 192

Serial No

34 Be submitted for approval

OFFICE SECRETARY
17 AUG. 1927

35 Ch Secy)

36 Financial Secy

37 Other Members

OFFICE OF THE THIRD MEMBER OF COUNCIL
19 AUG. 1927
No. 1383

38 [illegible]

39 Home

2 Letter No. L 1076 dated 24.8.27 from Chief Engineer Elec.

Approval is in the circumstances related, is submitted for the sanction of Government under sub-criteria (2) to the modification as regards the restriction on the employment of existing hands but only on the erection of new buildings and extensions of existing buildings

Do Letter no 50 dt 15 9 1928 from the Chief Commissioner Bangalore city stating that

NOTE—Contin. sheet.

G No. 1178 10 Sm 28
25-26

OFFICE OF THE CITY MUNICIPAL COUNCIL.

Bangalore City, Dated 24th JULY 1928

27

Mul 81-23-1

From

J V MASCARENHAS, Esq., M B, C M, D P H., D T M.,

Offg MUNICIPAL COMMISSIONER, MUNICIPAL COUNCIL,

BANGALORE CITY

17 JUL 1928

To

B Nagappa, Esq., Bar-at-Law,

Secretary to the Government of

His Highness the Maharaja of Mysore,

Local and Legislative Departments,

Bangalore

SIR,

I have the honor to state that the localities known as Dobbspet and Palace Upparahally, included in the Bangalore City Municipal limits, come within the areas specified in the Chief Commissioner's Notification Nos. 13, dated 23rd April 1868 and 188 dated --- 24th October 1872, as well as in the Government Notification No 769/R F. 55 dated 2nd July 1892, prohibiting the erection of new houses, or extension of the existing ones, etc, without obtaining distinct permission from the Government, and that the inhabitants of the said localities often submit applications for licenses to rebuild their insanitary and dilapidated houses. These applications are being rejected in view of the above said notifications of the Chief Commissioner The question was considered at the -- Council meeting held on the 16th May 1925 and the Council have resolved that, as these notifications work great hardship on the residents of these villages, the Government be requested to revoke them A copy of the Council resolution is submitted herewith for information and orders of Government

I have the honour to be,
Sir,
Your most obedient servant,

Offg. Municipal Commissioner.

Forwarded with compliments.

Dsg

No 36

(24 16

Proceedings of an Ordinary General Meeting of the City Municipal Council, Bangalore, held on Saturday the 16th May 1925 at 5 P M in the Council Chamber

PRESENT

Mohamed Abbas Khan, Esquire, (Honorary President),

Councillors

Mr. W.H Hanumanthappa,
" G.Muniyappa,
" Belur Sreenivasaiengar, B A ,B.L ,
" G Karamasivian,B.A ,LL B ,
" V Venkatesiah,
" G Siddaveerappa,
" B Abdur Rahmon,B A ,
" B.L Byanna,
" G B Raghavendrachar,B A ,
" R Gopalaswami Iyer,
11 Mr C.N Narasinga Rao,B A ,B L ,
12 " C Hayavadana Rao, B A ,B L ,
13 " S Venkataranga Iyengar,
14 " M V Kalyanpur,
15 " P Murugesam Pillay,
16 " P Subbarama Chetty,
17 " D Venkataramiah,B A ,L T ,
18 " P.N Basappa,
19 " M C Chicknanjundappa,
20 " M Ramachandra Rao Sindia

ABSENT

Mr B V Krishniengar,
" R K Garudachar,
" S N M Razvi,
" C K Hutchappa,
5 Mr S N Sitarama Rao,
6 Rev W H Thorp,B A ,
7 Mr J R Isaac,B A ,M.B E ,
8 " B N Vijayadeva,M A ,Bar-at-Law
9 Mr V A Krishnamurthi Mudaliar,B A

---oOo---

5 Letter dated 17th March 1925 from Mr R Gopalaswami Iyer, Municipal Councillor, proposing to move the following propositions ---

(a) "The Government be requested that the 3 notifications dated 23rd April 1864, 24th October 1872 and 2nd July 1892 be revoked and license be given to the residents of Dobspet and Palace Upparahalli villages within the City limits, to repair or build houses "

(b) * * * * * * * * *

Resolution --- (a) Resolved that Government be requested to revoke the notifications in question as they work great hardship on the residents of these villages

(b) * * * * * * * *

Sd Mohamed Abbas Khan,
Honorary President

"C o p y "

Offg Municipal Commissioner

24/7/25

L1076/mil 81-25-2

Draft.

By 24-8-27

To

The Municipal Commissioner,
Bangalore City.

Sir,

I am directed to invite reference to your letter No.C.10 of 25-26 dated 27th July 1925 proposing that the restrictions against the erection of new houses or extension of the existing ones in the localities known as Dobbspet and Palace Upparahally in Bangalore City, laid down in the Chief Commissioner's Notifications dated 23rd April 1868 and 24th October 1872 and in a Government Notification dated 2nd July 1892 be removed. Government consider that the best course in this case would be to permit the improvement of existing pucca houses while continuing the restriction against extensions to kacha houses as such extensions would make the locality more congested and insanitary. All thatched houses in the localities may be acquired as also some pucca ones at Upparahalli which are too close to the main road The sanitation of the place should be improved as far as possible without any attempt to lay out the locality on a new plan by opening out all congested areas and widening lanes where necessary. The people who are dispossessed of their houses by acquisition may be alloted sites at Guttahalli if they are

19

prepared to go and settle there

I am to request you to kindly submit proposals in the light of the above observations very early for the approval of Government The Notifications referred to in your letter need no modification as ~~there is~~ there exists no restriction ~~in them against~~ on the improvement of existing ~~tending~~ houses but only ~~against~~ on the erection of new buildings and extensions of existing buildings

I have etc

Chief Secretary to Government